SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cardenas | Analyst: Jeff Garnier | Bill Number: AB 1923

Related Bills: See Prior Analysis | Telephone: 845-5322 | Amended Date: May 17, 2000

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Child Care Facility Credit/50% of Costs for Facilities Serving Low-Income Children/Bank Loans Credit/FTB Report to Legislature Upon Request

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _________.

__X__ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _________.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _________________________.

_____ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED ____________ STILL APPLIES.

__X__ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a credit in an amount equal to 50% of qualified expenditures, not to exceed specified limits, to any taxpayer that pays or incurs monetary contributions in excess of $4,000 to a qualified child care facility located in California. The bill would provide for the recapture of the credit if the qualified child care facility was not operated as a child care facility for 60 consecutive months. Various aspects of the credit would be certified by the Department of Social Services (DSS). This bill also would allow the proposed credit to reduce regular tax below tentative minimum tax (TMT).

Under the B&CTL, for specified loans relating to financing qualified child care and development facilities, this bill would allow a credit equal to 50% of the difference between the amount of interest income actually received and the amount of interest income that would have been received had the loan been made at one point above the prime rate.

This bill would require a report to the Legislature upon request regarding the total amount of credits claimed under this provision.

SUMMARY OF AMENDMENT

The May 17, 2000, amendment added the recapture and certification provisions. Additionally, the amendments modified the definition of "expand" or "expansion" to mean the increase of child capacity by at least 10% over the capacity before the expansion. The amendments also made several technical changes.

Board Position:			Legislative Director	Date
_____ S	_____ NA	_____ NP		
_____ SA	_____ O	_____ NAR	Johnnie Lou Rosas	6/8/00
_____ N	_____ OUA	__X__ PENDING		

The May 17, 2000, amendments resolve the department's policy, implementation and technical concerns outlined in the prior analysis. A new implementation concern is outlined in this analysis.

No changes were made to the "credit for interest income on child care and development facilities."

EFFECTIVE DATE

This provision would be effective immediately upon enactment and would apply to taxable or income years beginning on or after January 1, 2000, and before January 1, 2005.

SPECIFIC FINDINGS

CHILD CARE FACILITY CREDIT

Except as noted in this analysis, the analysis of the bill as amended February 15, 2000 and March 27, 2000, still applies.

This bill would define qualified expenditures to include only monetary contributions made by a qualified taxpayer that do not exceed either $400,000 for any single qualified child care facility or $2 million in aggregate contributions for multiple qualified child care facilities. The $400,000 and $2 million maximums are cumulative and include amounts contributed in prior taxable or income years. The maximum amounts also would include qualified expenditures made by any party related (as described in IRC sections 267, 318 or 707(b)) to the taxpayer. Prior to the May 17, 2000, amendments the bill did not include relationships with partnerships (IRC 707(b)).

The bill would require the qualified child care provider to provide to the State DSS and the taxpayer the following information:

- A written plan reflecting the child care provider's ability to recruit children from low-income families and that the facility will be operated as a child care facility for a minimum of five years.

- An agreement that monetary contributions received from qualified taxpayers will be used to construct or expand a child care facility in California.

- A receipt for the monetary contribution received from the taxpayer.

- The child care provider's taxpayer identification number.

- An agreement that the following would be completed within one year from the date the taxpayer made the monetary contribution:
  - The construction or expansion and commencement of operation of the child care facility.
  - In the case of a child care facility that is not geographically located in or within one mile of a low-income area as defined by the Community Reinvestment Act of 1977, as amended, approval to accept children from families qualifying for child care subsidies.

The bill would provide that no credit would be allowed for a child care facility unless the DSS certifies the following:

- Within a one-year period from the date the taxpayer makes a qualified expenditure to a qualified child care provider:
  - That the qualified child care facility is geographically located in or within one mile of a low-income area.
  - That the qualified child care facility began operating as a child care facility.

The bill requires the DSS:

- To certify that the taxpayer's monetary contribution was used to construct or expand a qualified child care facility.
- To certify that the qualified child care provider has received approval to accept children from low-income families.
- To certify, on an annual basis for six years, that the number of months the qualified child care facility operated as a child care facility.
- To provide an annual listing to the Franchise Tax Board of:
  - Taxpayers making monetary contributions during the previous calendar year, the taxpayer's name, taxpayer identification number, and the date and amount of monetary contributions made.
  - Child care providers receiving monetary contributions during the six proceeding calendar years, the qualified child care provider's taxpayer identification number, and the number of months the qualified child care facility was operated as a child care facility.
  - The information contained in the DSS' certifications.

This bill would define "expand" (for the expansion of a child care facility) to mean the expanding of an existing licensed child care facility that adds new child care capacity of at least 10%.

This bill would require the taxpayer to recapture the credit if the qualified child care facility is not operated for 60 consecutive months as a child care facility. The credit would be recaptured in the year the qualified child care facility ceased operation as a child care facility. Thus, the facility could be sold and if it remained a child care facility, the credit would not be subject to recapture. The bill also would suspend the 60-month requirement for any period during which the child care provider suspends child care services in order to replace the property as a result of an involuntary conversion, as described in IRC Section 1033(a). Under the IRC provision, taxpayers generally have up to two years to replace property compulsorily or involuntarily converted due to destruction (in whole or in part), theft, seizure, requisition or condemnation.

Implementation Consideration

The DSS would be required to certify several items concerning the credit. The DSS would not be required to certify the taxpayer's "qualified expenditures" made to the child care provider and would not be required to calculate the credit. The DSS only would be required to certify that the monetary contribution received by the child care provider was used to construct or expand a child care facility. The DSS also needs to certify the taxpayer's qualified expenditure and the amount of the credit.

Additionally, the DSS would not determine or certify that the taxpayer would be required to recapture the credit (due the facility no longer being operated as a child care facility). The DSS needs to certify that the taxpayer's would not be required to recapture the credit.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact department costs.

Tax Revenue Estimate

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact Taxable/Income Years Beginning On or After January 1, 2000 Enactment Assumed After June 30, 2000 Fiscal Years			
	2000-1	2001-2	2002-3
Facility Credit	-$250,000	-$500,000	-$500,000
Interest Income Credit	Negligible	Minor	Minor
Total	Minor	$1 million	$1 million

Negligible = Loss less than $250,000.
Minor = Loss less than $500,000.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Facility Credit:

The decrease in the revenue loss estimate from the prior analysis is primarily due to the amendment that added the recapture provision.

Revenue losses would depend on the amount of new cash contributions and redirected cash contributions of at least $4,000 per contributor. For purposes of this estimate, it is assumed that contributions would be redirections of amounts usually given to other charitable organizations that are deductible for income tax purposes or trade or business expenses for employers making contributions for the benefit of employees.

The number of child care centers qualifying under this provision is projected to be 95% of the total new or expanded non-government, for profit centers in California, i.e., 442 centers in 2000. The growth rate for centers is projected to increase from 4% in 1998 to 8% percent in 2003 due to factors such as welfare reform, increased funding from the California Department of Education, the increasing demand for child care in California, and the incentive effect of this provision. These factors were also considered in the estimate for centers that would expand existing facilities.

Of the projected 442 new or expanded qualified child care facilities in 2000, it is assumed that 25%, or 111 facilities, would receive one cash contribution averaging $5,000. The total projected 2000 contribution after the 50% credit limitation is $276,000. The 2000 offset is projected to be $44,000, resulting in a 2000 revenue loss of $232,000.

Estimates were developed in coordination with child care system and facility experts at the National Economic Development and Law Center and the California Child Care Resource and Referral Network.

Interest Income Credit:

This estimate is provided as a rule of thumb for every $50 million in annual qualified loans and assumes an average loan term of 7.5 years with an average discount rate of 1%.

BOARD POSITION

Pending.